IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 108 OF 2004
IN
CIVIL APPLICATION NO. 2505 OF 2003
IN
FIRST APPEAL NO. 1051 OF 2003

Smt. Anitha @ Sonam RajendraKumar Sachani & Anr ...Petitioners

Versus

Rajendra Kumar Kimatram Sachani ...Respondent

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Ms. Anita Bhaktwani with Smt.. Poonam Bhosale counsel for Petitioners

Mr. S.A. Joshi h/f Mr. Sudhir Hardikar counsel for Respondent.

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CORAM: B. H. MARLAPALLE, J.

DATED: 18TH JANUARY, 2005

P.C.:-

1. Heard Ms. Anita Bhaktwani the learned counsel for the petitioner wife and Smt. Joshi for the respondent husband.

2. It is alleged that the respondent failed to obey the order passed by this Court in Civil Application No. 2505 of 2003 in First Appeal No. 1051 of 2003 on 23.7.2003. The relevant portion of the said order reads as under:-

" Rule returnable after 8 weeks.

In the meanwhile, ad-interim relief subject to deposit of 50% of the amount of arrears on payment of monthly maintenance charges awarded by the trial court on or before 10th day of each month. In default of payment of 50% of amount of arrears and/or in default of payment of any two consecutive monthly instalments of maintenance charges, the interim relief granted shall stand automatically vacated without reference to the Court."

.....

3. It is contended that the respondent husband neither deposited 50% of the amount of arrears of maintenance nor paid monthly maintenance at 50% before the 10th day of each month and therefore, there is a case of contempt within the meaning of section 2(b) of the Contempt of Courts Act, 1971.

4. The arguments so advanced do not commend to the Court. The consequences of non payment or deposit of 50% of the amount of arrears have been set out in the second part of the order quoted hereinabove viz. the interim relief granted shall stand automatically

vacated without reference to the Court and in such a situation, the petitioner wife may have an alternative remedy for execution of the trial Court's order which is the subject matter of challenge in First Appeal No. 1051 of 2003. When the order passed by this Court on 23.7.2003, has itself set out the consequences for non implementation of its directions, there is no case of contempt within the meaning of section 2(b) of the Contempt of Courts Act, 1971 and, therefore, this Contempt Petition must fail, the same is hereby dismissed.